Foreign Exchange Administration Policies

The objective of foreign exchange administration is to provide an appropriate framework that will influence capital flows and facilitate currency risk management to promote financial and economic stability of the country. In line with the objective, the foreign exchange administration rules are being further liberalised and simplified with effect from 1 April 2005 (refer to the White Box: 'Liberalisation of the Foreign Exchange Administration Rules' in Chapter 3). All rules continue to be applied uniformly to transactions with all countries, except the State of Israel for which special restrictions apply. With these relaxations, the following are the rules affecting foreign exchange transactions:

I Current Account Transactions

(a) Payments for Import of Goods and Services

- There is no restriction on payments to non-residents for import of goods and services. Such payments must be made in foreign currency with the exception of the currency of the State of Israel (Restricted Currency).
- There is no restriction for residents to enter into a forward foreign exchange contract with licensed onshore commercial and Islamic banks (licensed onshore banks) or approved merchant banks to buy foreign currency against ringgit or another foreign currency to make payment for import from a non-resident.

(b) Proceeds Arising from Export of Goods (Export Proceeds)

- All export proceeds are required to be repatriated to Malaysia in accordance with the payment schedule as specified in the sales contract, which should not exceed six months from the date of export.
- Export proceeds must be received in foreign currency and must be sold for ringgit or retained in export foreign currency accounts (FCA) with licensed onshore banks. There is no limit on the amount of funds retained in the export FCA.
- Residents may enter into a forward foreign exchange contract with a licensed onshore bank to sell export proceeds for ringgit or another foreign currency, provided the maturity of the forward contract is not later than six months after the intended date of export.
- Only resident exporters with annual gross exports exceeding the equivalent of RM50 million are required to submit quarterly reports to the Controller of Foreign Exchange (the Controller).

(c) Import and Export of Currency by Travellers

- Resident travellers are allowed to import or export ringgit notes up to RM1,000, including demonetised RM1,000 and RM500 notes, and to export foreign currency notes, including traveller's cheques, up to an equivalent of RM10,000. Resident travellers are required to obtain permission from the Controller and declare in the Traveller's Declaration Form (TDF) when they:

  - Carry into or out of Malaysia, ringgit notes exceeding RM1,000.
  - Carry out foreign currency notes, including traveller's cheques, exceeding the equivalent of RM10,000.

  Permission is given within one day of application.
- There is no restriction for residents to bring into Malaysia any amount of foreign currency notes.
- There is also no restriction for non-residents to bring in any amount of foreign currency notes and/or traveller's cheques. Declaration in the Arrival/Departure Card (IMM.26) issued by the Immigration Department is only required for amounts in excess of the equivalent of US$2,500.
- Non-residents would need to seek permission from the Controller if the amount of foreign currency notes to be carried out of Malaysia exceeds the amount brought into Malaysia, provided the amount to be taken out is more than the equivalent of US$2,500.

- Non-residents must obtain permission from the Controller and declare ringgit notes exceeding RM1,000 being brought into or out of Malaysia.

II Capital Account Transactions

(a) Investment in Malaysia by Non-residents

- There is no restriction on repatriation of capital, profits, dividends, interest, fees or rental by foreign direct investors or portfolio investors.

- Ringgit assets purchased by residents from non-residents may be settled in ringgit or foreign currency, other than Restricted Currency. However, all remittances abroad must be made in foreign currency other than Restricted Currency.

(b) Investment Abroad by Residents

- Licensed onshore banks and approved merchant banks may invest abroad as long as they comply with the Banking and Financial Institutions Act 1989 or Islamic Banking Act 1983 and their approved foreign currency net open position limit. Remittances for investment abroad must be made in foreign currency, other than Restricted Currency.

- Residents, companies and individuals, with no domestic borrowing are free to invest abroad. The investment may be made through the conversion of ringgit or from foreign currency funds retained onshore or offshore.

- Residents with domestic borrowing are also free to invest abroad their foreign currency funds maintained onshore or offshore. In addition, they are allowed to convert ringgit into foreign currency up to the following limits for overseas investments, including extension of foreign currency credit facilities to non-residents:

  (i) Up to RM10 million per calendar year by companies on a per corporate group basis; and

  (ii) Up to RM100,000 per calendar year by individuals.

  For companies converting ringgit for overseas investments, they must have a minimum shareholders' funds of RM100,000 and must be in operation for at least one year.

  For individuals, they may convert ringgit into foreign currency up to the amount required for investment in foreign currency securities under the Employee Share Option/Purchase Scheme offered by their employers' overseas parent or related companies.

- Residents, with or without any domestic credit facilities, may also finance in aggregate up to RM10 million equivalent their overseas investments with foreign currency borrowing.

- Resident unit trust management companies may invest abroad up to the full amount of the Net Asset Value (NAV) attributed to non-residents and up to 30% of the NAV attributed to residents. Different funds of a unit trust management company or funds of different companies may be pooled to benefit from economies of scale when investing abroad. Such investments are required to be in line with the Securities Commission's prudential guidelines.

- Resident fund/asset managers may invest abroad up to the full amount of investments by their non-resident clients as well as resident clients without any domestic credit facilities and up to 30% of investments by resident clients with domestic credit facilities. These funds by different clients or companies may be pooled to benefit from economies of scale when investing abroad. Such investments should be based on the mandate of their clients and in compliance with the Securities Commission's prudential guidelines.

- Resident insurance companies and takaful operators may invest abroad up to 5% of their margin of solvency and up to 5% of their total assets respectively.

- Resident insurance companies and takaful operators may also invest abroad up to 30% of the NAV of the investment-linked funds that they market. These investments are subject to compliance with prudential insurance and takaful regulations issued by Bank Negara Malaysia.

(c) Credit Facilities Obtained by Residents
Foreign Currency Credit Facilities

- Residents may obtain trade financing facility of any amount in foreign currency from licensed onshore banks and licensed merchant banks.

- In addition, resident companies may obtain credit facilities in foreign currency up to the equivalent of RM50 million in aggregate on a corporate group basis from licensed onshore banks, licensed merchant banks and non-residents.

- Resident individuals may also obtain credit facilities in foreign currency up to the equivalent of RM10 million in aggregate from licensed onshore banks, licensed merchant banks and non-residents.

- Any amount of credit facility exceeding the above permitted limits would require the prior permission of the Controller. Where the aggregate amount exceeds the equivalent of RM1 million and up to the permitted limit, the resident (company or individual) is required to register the credit facility with the Controller, prior to drawing down on the facility.

- Residents may only utilise up to an aggregate of RM10 million equivalent of the foreign currency credit facilities to finance overseas investment activities.

- There is no restriction for the repayment or prepayment of credit facilities as long as such credit facilities have been obtained in accordance with the relevant foreign exchange administration rules. Resident borrowers, however, are required to register with the Controller any proposal to prepay the credit facilities prior to effecting the prepayments.

Ringgit Credit Facilities

- Residents are required to seek prior permission of the Controller to obtain any amount of credit facility in ringgit from non-residents, including from non-resident shareholders or directors.

(d) Extension of Credit Facilities to Non-residents
Foreign Currency Credit Facilities

- Licensed onshore banks and approved merchant banks may extend credit facilities in foreign currency to non-residents for any purpose. However, credit facilities extended for the purchase or construction of immovable property in Malaysia would be subject to similar requirements as for ringgit credit facilities outlined below.

- Residents, companies and individuals, with no domestic borrowing are free to extend credit facilities in foreign currency to non-residents. The extension of credit facility may be made through the conversion of ringgit or from foreign currency funds retained in Malaysia or abroad.

- Residents with domestic credit facilities may also extend credit facility in foreign currency to non-residents subject to the permitted limits for investment abroad by residents.

Ringgit Credit Facilities

- Non-bank residents may extend credit facilities in ringgit not exceeding an aggregate of RM10,000 to a non-resident.

- Resident stockbroking companies may extend margin financing facilities to non-resident clients for the purchase of shares listed on Bursa Malaysia, provided they comply with all the relevant regulations imposed by Bursa Malaysia.

- Licensed onshore banks may extend ringgit intra-day and overnight overdraft facilities in aggregate not exceeding RM200 million to a non-resident stockbroking company or a non-resident custodian bank. The facilities are strictly for financing funding timing gaps due to unforeseen or inadvertent/ technical administration errors or delays due to time zone difference in relation to settlement of trades on Bursa Malaysia.

- Resident insurance companies may extend policy loans in ringgit to their non-resident policy holders for amount up to the attained cash surrender value of their policies and not exceeding the duration of the policies.

- Residents, bank or non-bank, may extend up to a maximum of three immovable property loans in ringgit to a non-resident to finance/refinance the purchase or construction of any immovable property in Malaysia, excluding for the purchase of land only, subject to their own internal credit assessment guideline. All purchases of immovable properties are subject to the guidelines issued by the Foreign Investment Committee. Details of the guidelines can be found at http://www.epu.jpm.my/.

- In addition, banking institutions may extend credit facilities in ringgit up to an aggregate limit of RM10 million to a non-resident (excluding a non-resident stockbroking company, custodian bank or correspondent bank) for any use in Malaysia, other than to finance the purchase or construction of immovable property.

- Prior permission of the Controller is required for the extension of credit facilities exceeding any permissible aggregate limits.

(e) Forward Foreign Exchange Contracts

Forward Foreign Exchange Contracts with Residents

- Licensed onshore banks and approved merchant banks may enter into forward foreign exchange contracts with residents to purchase or sell any foreign currency against ringgit or another foreign currency as follows:

  (i) Any payments or receipts for import or export of goods and services as well as income, based on firm commitment or anticipatory basis;

  (ii) Hedging the foreign currency exposures of permitted overseas investment, including extension of credit facilities to non-residents;

  (iii) Any committed capital inflows or outflows, including drawdown of permitted foreign currency credit facilities, and repayment of foreign currency credit facilities up to the amount repayable within 24 months as well as payments for permitted overseas investment.

- The maturity date of the forward foreign exchange contract should be the expected date of receipt or payment of the underlying transaction.

- For forward purchase of export proceeds, the maturity date of the forward foreign exchange contract should not be later than six months after the intended date of export.

- For forward foreign exchange contract involving two foreign currencies, the use or retention of the foreign currency being purchased by the residents must comply with the current foreign exchange administration rules.

- Licensed onshore banks, approved merchant banks and licensed offshore banks in Labuan are allowed to enter into interest rate swaps with residents, provided the transaction is supported by firm underlying commitment.

- Resident companies that have sold forward foreign currency receivables for ringgit, may temporarily retain up to the amount of foreign currency receipts received earlier than the maturity date of the forward foreign exchange contract in their FCA with licensed onshore banks, pending maturity of the forward foreign exchange contract.

Forward Foreign Exchange Contracts with Non-residents

- Licensed onshore banks are allowed to enter into short-term currency swap arrangements with non-resident stockbrokers and non-resident custodian banks to cover payment for shares purchased on Bursa Malaysia. The permission is subject to the condition that such contracts are based on firm commitment and not on anticipated purchases, and for maturity period of up to three working days with no rollover option.

- In addition, licensed onshore banks are allowed to enter into forward purchase or sales contract against ringgit with non-residents that have purchased or sold ringgit assets to facilitate settlement in ringgit. The permission is subject to the condition that such contracts are based on firm commitment and not on anticipated purchases or sales, and the maturity date is the expected or due date of payment or receipt of the underlying transaction.

- Multilateral Development Banks (MDBs)/Multilateral Financial Institutions (MFIs) and foreign multinational corporations (MNCs) that are allowed to issue ringgit-denominated bonds in Malaysia may also enter into forward foreign exchange contracts with licensed onshore banks to hedge their foreign exchange and interest rate risks arising from the issuance of ringgit-denominated bonds.

- Licensed onshore banks may also enter into forward foreign exchange contracts with non-residents who invest in ringgit-denominated bonds issued by MDBs/MFIs and MNCs to hedge their foreign exchange and interest rate risk arising from the investment in the ringgit-denominated bonds.

III Ringgit Credit Facilities to Non-resident Controlled Companies (NRCCs)

- There is no restriction on residents to extend any amount of ringgit credit facilities to NRCCs.

IV Issuance of Ringgit Private Debt Securities

- There is no restriction for resident companies to raise domestic credit facility through the issuance of ringgit Private Debt Securities regardless of amount, provided the proceeds are not used for refinancing of offshore borrowing and/or for financing of investment abroad exceeding RM10 million in aggregate in a calendar year. The issuance of Private Debt Securities must also be in accordance with the Exchange Control Guideline on Private Debt Securities.

- Applications for issuance of ringgit bonds in Malaysia by MDBs/MFIs and MNCs would be considered based on the merits of each case. The information notes relating to such applications may be found at http://www.bnm.gov.my/fxadmin.

V Foreign Currency Accounts of Residents

- Residents, with or without any domestic credit facilities, are free to open foreign currency accounts (FCA) with any licensed onshore banks, licensed offshore banks in Labuan or overseas banks to retain any amount of their foreign currency receipts, other than receipts arising from export of goods from Malaysia.

- Resident exporters may open FCA with licensed onshore banks to retain any amount of foreign currency export receipts. They are also free to merge their export and non-export FCA maintained with licensed onshore banks without any restriction on the amount of foreign currency receipts retained in such accounts.

- In addition, residents may convert ringgit into foreign currency for credit into their FCA maintained with licensed onshore banks, licensed offshore banks in Labuan and overseas banks subject to the permitted limits for investment abroad by residents.

- Resident companies may also temporarily retain in their onshore FCA, proceeds that have been sold forward for ringgit and received earlier than maturity date of the forward contract.

- Resident individuals with domestic credit facilities may also convert ringgit into foreign currency for credit into FCA opened solely to facilitate education and employment overseas up to an aggregate limit of:

  (i) US$150,000 with licensed onshore banks;
  (ii) US$150,000 with licensed offshore banks in Labuan; and
  (iii) US$ 50,000 with overseas banks.

- Resident companies maintaining FCA with licensed offshore banks in Labuan or overseas banks are required to submit monthly statement, Statement OA, on the accounts to the Controller.

VI Foreign Currency Accounts of Non-residents

- Licensed onshore banks and licensed merchant banks may open FCA for non-residents.
- There are no limits on the FCA of non-residents and no restrictions on the inflow and outflow of funds through the FCA of non-residents.

VII External Accounts of Non-residents

- Resident financial institutions may open accounts in ringgit known as External Accounts for non-residents. There is no overnight limit on External Accounts. Non-residents may make ringgit cash withdrawal of any amount from the External Accounts.
- There is also no restriction on the amount that can be converted from ringgit into foreign currency and vice versa by the non-resident account holders with licensed onshore banks.
- Non-residents may use ringgit funds in the External Account for the following purposes:
  - Purchase of foreign currency, excluding Restricted Currency;
  - Purchase of ringgit assets in Malaysia;
  - Payment for goods and services for own use in Malaysia;
  - Payment of administrative and statutory expenses incurred in Malaysia;
  - Payment under a non-financial guarantee to a resident (where the External Account holder is making payment arising from the guarantee being called upon);
  - Extension of ringgit credit facilities to staff in Malaysia in accordance with the terms and conditions of employment;
  - Repayment of ringgit credit facilities permitted by the Controller or in accordance with terms and conditions of employment; and
  - Payments to resident beneficiary for any purpose other than the following:
    - Payment for the import of goods and services;
    - Extension of ringgit credit facilities to residents other than as permitted by the Controller;
    - Settlement under financial guarantees; and
    - Payment on behalf of a third party.
- The sources of funds for credit into External Accounts may be from:
  - Sale of foreign currency for ringgit with licensed onshore banks, excluding Restricted Currency;
  - Sale of ringgit assets;
  - All income derived in Malaysia including salaries, wages, royalties, commissions, fees, rental, interest, profits or dividends;
  - Proceeds from ringgit credit facilities permitted by the Controller or in accordance with the terms and conditions of employment;
  - Proceeds from repayment of ringgit credit facilities permitted by the Controller or in accordance with the terms and conditions of employment;

- Transfers from:
  - ∗ Another External Account of the same account holder;
  - ∗ Another External Account and/or Resident Account of different account holders by way of:
    - o Automated Teller Machine transfer up to RM5,000 per person/company, per day, per bank for any purpose;
    - o Internet-bank transfers up to RM5,000 per person/company, per day, per bank for any purpose.
- Deposit of ringgit notes not exceeding RM10,000 per day; and
- Deposit of cheques up to RM5,000 per cheque for any purpose.

• Ringgit funds in the External Accounts may be converted into foreign currency and repatriated abroad or used in Malaysia for permitted purposes.

• There is no restriction on the operation of the External Accounts of non-residents working or studying in Malaysia (including their spouse, children and/or parents who are currently residing in Malaysia), central banks, embassies, consulates, high commissions, supranational or international organisations recognised by the Government of Malaysia. Such persons or organisations can use funds in the External Accounts for all purposes, including the permissible purposes referred above.

VIII Special Status Granted to Selected Companies

(a) Offshore Entities in the Labuan International Offshore Financial Centre

• Entities incorporated or registered under the Offshore Companies Act 1990 in the Labuan International Offshore Financial Centre are declared as non-residents for foreign exchange administration purposes.

• Offshore entities in Labuan may buy or sell foreign currency (other than Restricted Currency) against another foreign currency spot or forward with licensed onshore banks, licensed offshore banks (excluding licensed offshore investment banks) in Labuan as well as non-residents outside Malaysia. They may also buy or sell foreign currency (other than Restricted Currency) against ringgit with licensed onshore banks for permitted purposes.

• All offshore entities may maintain External Accounts with resident banks to facilitate the defrayment of statutory and administrative expenses in Malaysia.

• Offshore insurance entities in Labuan may also use their External Accounts to facilitate the receipt of reinsurance premiums and for payment of claims arising from reinsurance of domestic insurance business.

• Licensed offshore banks in Labuan may receive payments in ringgit from residents arising from fees, commissions, dividends or interest from deposit of funds with onshore financial institutions.

• Licensed offshore banks in Labuan may invest in assets/instruments in Malaysia for their own account provided investments are transacted directly with resident banking institutions or resident brokers. The investments must not be financed by ringgit borrowings.

(b) Multimedia Super Corridor Companies

• Companies operating in Multimedia Super Corridor (MSC) that are incorporated as separate legal entities, are given exemption from foreign exchange administration rules upon the companies being awarded the MSC status by the Multimedia Development Corporation. The exemption granted to the MSC companies is solely for transactions undertaken on their own account.

• However, prior permission should be obtained to deal with Specified Persons and in Restricted Currency.

• The MSC companies are required to submit the necessary statistical forms/reports/statements for monitoring purposes. These reports can be obtained from Bank Negara Malaysia's website, http://www.bnm.gov.my/fxadmin.

(c) Approved Operational Headquarters

- Approved Operational Headquarters (OHQs) are allowed to:

  (i) Open FCA with licensed onshore banks to retain any amount of export proceeds in foreign currency.

  (ii) Open FCA with licensed onshore banks, licensed offshore banks in Labuan or overseas banks for crediting foreign currency receivables, other than export proceeds, with no limit imposed on the overnight balances.

  (iii) Obtain any amount of domestic credit facilities in ringgit.

  (iv) Obtain any amount of foreign currency credit facilities from licensed onshore banks and licensed merchant banks in Malaysia, and from any non-resident, provided the OHQ does not on-lend to, or raise the funds on behalf of, any resident.

  (v) Invest abroad any amount, including extension of credit facilities to their related overseas companies, to be funded with foreign currency funds or foreign currency borrowing. They may also convert any amount of ringgit if they have no domestic credit facilities or up to RM10 million into foreign currency per calendar year if they have domestic credit facilities for investment abroad.